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PATENT

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Date: May 17, 2006

By:

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of Glen TINDAL et al.

Confirmation No.: 8202

Serial No. 09/730,682

Examiner: M. PYZOCHA

Filed: 12/06/2000

Art Unit: 2137

FOR: NETWORK OPERATING SYSTEM DATA DIRECTORY

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

In response to the Final Office Action ("Final Action") of April 14, 2006, Applicants respectfully request a review of the above-identified matter prior to filing of an Appeal Brief. A Notice of Appeal is filed herewith under 37 C.F.R. 41.31. Applicants submit that a review is appropriate because there are limitations in the claimed invention that have not been identified in the prior art by the Examiner.

ARGUMENT

Claims 21-29 and 32-33 remain pending in this application for consideration. Reconsideration of claims 21-33 in light of the remarks below is respectfully requested.

Claim Rejections Under 35 U.S.C. §102(b)

Claims 21, 22, 24, 26 and 32 stand rejected on the basis that they are anticipated by U.S. Patent No. 5,764,955 (“Doolan”). Applicants submit this rejection is improper because the Final Action has not identified at least a suggestion of each limitation of claims 21, 22, 24, 26 and 32 within Doolan.

With respect to independent claim 21, the Final Action contends that Doolan, at (Col. 12, lines 33-40) teaches “gathering information” that “indicates desired capabilities of the network device” as recited in claim 21. For convenience, a copy of Col. 12, lines 33-40 of Doolan is provided:

Initialization and provision service 318 is used to acquire and manage configuration information which is stored in CFG DATA 320, a configuration database. Configuration information is required to initialize sessions with each legacy network element. Configuration information includes the target identifier (TID), personal identifier (PID), user identifier (UID), activation scenario, manufacturer, model and failure scenarios. The manufacturer and model information is used to select the proper dictionary.

The Final Action, however, does not identify with any specificity what in this portion of Doolan allegedly “indicates desired capabilities of the network device;” thus the rejection fails under 102(b) and 37 CFR 1.104 (c)(2), which requires:

When a reference is complex or shows or describes inventions other than that claimed by the applicant, *the particular part relied on must be designated as nearly as practicable*. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified. (emphasis added).

Moreover, the Final Action contends that Doolan, at Col. 12, lines 40-50, teaches “obtaining actual-configuration data” that “corresponds to existing capabilities of the network device.” For convenience, Col. 12, lines 40-50 of Doolan is provided:

The manufacturer and model information is used to select the proper

dictionary. The TID is a network element identification used to uniquely identify every network element. The UID identifies all entities which may access the network element identified by the TID. The PID is a password used for security purposes by the entity identified in the UID. The activation scenario is a series of tasks to be performed when a network element is to become active on the network and establish a session with gateway 204. Failure scenarios are provided to handle recovery for a variety of legacy equipment and network failures.

The Final Action, however, does not identify with any specificity what in this portion of Doolan is allegedly the “actual-configuration data” that “corresponds to existing capabilities of the network device;” thus the rejection fails under 102(b) and 37 CFR 1.104 (c)(2).

In addition, the Final Action contends that Doolan, at Col. 11, line 65 through Col. 12, line 32, teaches “altering the actual-configuration data.” Again, the rejection is improper because the Final Action does not specifically identify anything in this portion of Doolan that allegedly corresponds to the recited “actual-configuration data.”

Moreover, the Final Action does not specifically identify anything, in Col. 11, line 65 through Col. 12, line 32, is being altered “in accordance with the gathered information” as recited in claim 21.

Finally, the Final Action contends Col. 11, line 65 through Col. 12, line 32 teaches the recited “configuration record,” but again, the rejection is improper under 102(b) and 37 CFR 1.104 (c)(2) because the Final Action does not identify, with any specificity, what construct within Doolan allegedly corresponds to the recited “configuration record.”

Because the Final Action has not identified each and every limitation of claim 21, Applicants submit claim 21, and hence, dependent claims 22-26 and 32 are improperly

rejected and respectfully request such a finding.

Turning to claims 27, 28 and 33, the Final Action has rejected these claims on the basis that they are anticipated by U.S. Patent No. 5,832,503 (“*Malik*”).

With respect to claim 27, the Final Action contends that Malik, at Col. 2, lines 14-21, discloses “gathering first configuration data” that “uniquely and generically indicates desired capabilities of the network device.” For convenience, a copy of Col. 2, lines 14-21 of Malik is provided:

The present invention utilizes a database of models, each "model" representing an associated network device and including attribute values for the parameters of that device. A configuration manager accesses a set of model types, each "model type" having an associated set of attributes. The configuration manager creates a template by selecting a model type and one or more attributes from the associated set of attributes, and then screens a selected model with the....

The Final Action, however, does not identify, with any specificity, what in this portion of Malik allegedly corresponds to the “first configuration data” that “uniquely and generically indicates desired capabilities of the network device;” thus the rejection fails under 102(b) and 37 CFR 1.104 (c)(2).

In addition, the Final Action contends that Malik, at Col. 3, lines 16-20, discloses “retrieving second configuration data” that includes “information about how the network device is currently configured to operate.” For convenience, Applicants provide a copy of Col. 3, lines 16-20:

In accordance with this invention, a configuration manager 18 obtains the values of certain attributes (i.e., data which define the characteristics of the network device being modeled) in a desired configuration by interrogating the SPECTRUM model of the managed device.

Again, the Final Action does not identify, with any specificity, what in this portion of

Malik allegedly corresponds to the “second configuration data;” thus the rejection is improper.

Finally, the Final Action contends that Malik discloses, at Col. 2, lines 21-42 and figure 3, “combining the first configuration data and the second configuration data into a configuration record for the network device.” Again, the Final Action does not identify with any specificity what in FIG. 3 or Col. 2, lines 21-42 of Malik allegedly corresponds to the recited “first configuration data” and “the second configuration data,” and as a consequence the Final Action does not identify “combining” the “first configuration data and the second configuration data into a configuration record” as recited in claim 27.

Applicants also submit that the rejections of dependent claims 28, 29 and 33 are also improper, at least, because the independent claims from which these dependent claims depend include several limitations not identified in the prior art.


Applicants would like to make clear that the arguments presented herein are merely those that are most appropriate for pre appeal brief review and are certainly not the only arguments related to patentability. Additional and more detailed arguments are expressly reserved for an Appeal Brief.

SUMMARY

The rejections under §102(b) are improper and claims 21-29 and 32-33 are allowable. Applicants respectfully request such a finding for the reasons set forth herein. The Commissioner is hereby authorized to charge any appropriate fees under 37 C.F.R. §§1.16, 1.17, and 1.21 that may be required by this paper.

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Respectfully submitted,

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